

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

PACIFIC COAST FEDERATION OF
FISHERMEN'S ASSOCIATIONS, *et al.*,

Plaintiff,

v.

GINA RAIMONDO, *et al.*,

Defendants.

No. 1:20-cv-00431-JLT-EPG

REQUEST FOR SUPPLEMENTAL
FILING

THE CALIFORNIA NATURAL
RESOURCES AGENCY, *et al.*,

Plaintiffs,

v.

GINA RAIMONDO, *et al.*,

Defendants.

No. 1:20-cv-00426-JLT-EPG

REQUEST FOR SUPPLEMENTAL
FILING

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1 Before the Court for decision is a joint request filed by the Plaintiffs in *California Natural*
2 *Resources Agency v. Ross*, No. 1:20-cv-00426-JLT-EPG, and the Federal Defendants in both
3 above-captioned cases (collectively, “Moving Parties”) for a Court order authorizing the
4 continued implementation, with slight modifications, of an Interim Operations Plan (IOP)
5 approved for implementation in 2022 by the previously assigned jurist. Briefing related to that
6 request is ongoing. However, having reviewed all the materials filed thus far, the Court believes
7 that its understanding of the factual backdrop would benefit from a supplemental filing by Federal
8 Defendants related to one matter.

9 Specifically, the Plaintiffs in *Pacific Coast Federation of Fishermen’s Association v.*
10 *Raimondo*, 1:20-cv-00431-JLT-EPG, (collectively, “PCFFA”), contend that the Federal
11 Defendants violated the 2022 IOP’s requirement to undertake “temperature management that
12 provides sufficient habitat for the longest period possible” by choosing to implement one modeled
13 water release scenario over another that PCFFA asserts would have “provided more habitat for
14 longer.” (*See* Doc. 416 at 26.) PCFFA’s assertion appears to be supported—at least in part—by a
15 document depicting results from Federal Defendants’ own modeling. (*See* Doc. 417-6 at 5, 7
16 (showing lower temperature dependent mortality for the scenario favored by PCFFA).) In response,
17 the Moving Parties argue that PCFFA’s position is based on a “subjective interpretation” that
18 “overlooks the opposite conclusion reached by multiple expert agencies.” (Doc. 419 at 4.) Federal
19 Defendants’ position is supported generically by the Declaration of Cathy Marcinkevage and
20 attachments (Doc. 425), but the record appears to be devoid of a *direct* explanation why the
21 relevant expert agencies reached the conclusion that the water release scenario ultimately chosen
22 for implementation provided “sufficient habitat for the *longest period possible*,” when viewed
23 against the scenario highlighted by PCFFA, which was predicted to have less detrimental impacts
24 in at least one respect.

25 The Court believes additional clarity on this topic before the final round of briefing is
26 likely to complete the record in the most efficient manner. Accordingly, within ten days of the
27 date of this order, Federal Defendants are directed to submit a supplemental declaration
28 addressing the issue outlined above. To allow those parties who would have otherwise been

1 permitted to file a responsive brief on or before December 12, 2022, that deadline will likewise be
2 extended by ten days. In light of the up-coming holidays, the Court will entertain any reasonable
3 stipulation or, if absolutely necessary, unilateral request to further modify these deadlines.

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5 IT IS SO ORDERED.

6 Dated: **November 30, 2022**


UNITED STATES DISTRICT JUDGE